Our File No. 400430

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF NEW YORK

CARLOS MEJIAS,

:...4:66

Plaintiff,

-against-

:

:

CIVIL ACTION NO.: 5:22-cv-01101 (MAD/ML)

JASON MCIVERY, LILY

TRANSPORTATION CORP., and RYDER

TRUCK RENTAL, LT, LLT

:

Defendants,

NOTICE OF REMOVAL

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF NEW YORK:

Defendants, Lily Transportation Corp. and Ryder Truck Rental, LT, LLT, by and through their attorneys, Salmon Ricchezza Singer & Turchi, LLP, respectfully aver as follows:

- 1. At all material times, Plaintiff, Carlos Mejias, was and is a citizen of the State of New York and currently resides in Newburgh, New York (See Plaintiff's Complaint, attached as Exhibit A).
- 2. At all material times, Defendant, Lily Transportation Corp., is incorporated in the State of Massachusetts and maintains its principal place of business in Needham, Massachusetts.
- 3. At all material times, Defendant, Ryder Truck Rental, LT, LLT, is incorporated in the State of Delaware and maintains its principal place of business in Miami, Florida.
- 4. At all material times, Defendant, Jason McIvery was and is a resident of Massachusetts and resides at 28 Rowley Street, Agawam, MA 01001.

- 5. As plaintiff is a citizen of the state of New York and defendants are not citizens of the state of New York, diversity of citizenship exists under 28 U.S.C. §1332.
- 6. Plaintiff commenced a civil action against defendants in the Supreme Court of the State of New York, County of Orange, on or about October 7, 2022.
- 7. Defendant, Ryder Truck Rental LT, LLT, was served on or about October 10, 2022 and Defendant, Lily Transportation Corp., was served on or about October 12, 2022.
- 8. Upon information and belief, defendant, Jason McIvery, has not yet been served; but consent to removal through undersigned counsel.
- 9. A review of plaintiff's Complaint reveals that it does not contain an Ad Damnum clause (See Exhibit "A"). However, the Complaint alleges:

plaintiff sustained severe, serious and permanent personal injuries, because sick, sore lame and disabled; suffered injury to her nervous system; suffered mental anguish, was confined to bed and home and may, in the future, be so confined; was incapacitated from attending to her usual duties and vocation and may, in the future, be so incapacitated; sustained a loss of quality and/or enjoyment of life, and plaintiff was otherwise damaged. (See Exhibit "A," plaintiff's Complaint, paragraph 90)

The Plaintiff has sustained serious injury as defined in Subdivision (d) of §5102 of the Insurance Law (\$50,000). (See Exhibit "A," plaintiff's Complaint, paragraph 90)

- 10. Further, based upon medical records received from counsel for plaintiff pre-suit, plaintiff is alleging he sustained injuries to the cervical spine and right shoulder, which required months of physical therapy, as well as, right shoulder arthroscopic surgery.
 - 11. Lastly, plaintiff counsel's pre-suit settlement demand was \$260,000.
- 12. Therefore, it is clear that the amount in controversy exceeds the federal diversity jurisdictional threshold of \$75,000.

13. As this petition for removal is filed within 30 days of receipt of Plaintiff's

Complaint, it is timely filed pursuant to 28 U.S.C. § 1446(b)(3).

14. As Diversity of citizenship existed at the time the action sought to be removed

was commenced and continues through the time of filing of this notice and the jurisdictional

threshold of \$75,000 has been alleged by competent evidence, Defendant is entitled to removal

pursuant to 28 U.S.C. §1441, as amended, and 28 U.S.C. §1446.

WHEREFORE, Defendants, Lily Transportation Corp. and Ryder Truck Rental, LT,

LLT, herein prays that the above captioned action now pending in the Supreme Court, Orange

County, be removed therefrom to this Honorable Court.

Date: 10/24/22

SALMON RICCHEZZA SINGER & TURCHI, LLP

/s/ Jeffrey A. Segal

Jeffrey A. Segal, Esq.

Ian T. Kingsley, Esq.

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Attorney for Defendants,

Lily Transportation Corp. and Ryder Truck

Rental, LT, LLT